

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOHN M. OBERT,

Plaintiff,

v.

JOSEPH LEHMAN,

Defendant.

Case No. C04-5899FDB

REPORT AND  
RECOMMENDATION TO DENY  
APPLICATION TO PROCEED *IN*  
*FORMA PAUPERIS*

Noted for March 18, 2005

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on plaintiff's filing of a civil rights complaint under 42 U.S.C. § 1983 and a motion to proceed *in forma pauperis*. To file a complaint and initiate legal proceedings, plaintiff must pay a filing fee of \$150.00 or file a proper application to proceed *in forma pauperis*. Because plaintiff has not responded to this court's order to show cause (Dkt. #4), the undersigned recommends the court deny his motion.

DISCUSSION

The court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*,

1 375 U.S. 845 (1963).

2 By requesting the court to proceed *in forma pauperis*, plaintiff is asking the government to incur  
3 the court filing fee because he is allegedly unable to afford the costs necessary to proceed with his civil  
4 rights action. On January 4, 2005, the court directed plaintiff to cure certain deficiencies in his motion to  
5 proceed *in forma pauperis* (namely that he provide more information regarding the nature of his financial  
6 obligations), by no later than February 4, 2005, or show cause why this matter should not be dismissed.  
7 (Dkt. #4). To date, however, plaintiff has not responded to the court's order.

8 CONCLUSION

9 Because plaintiff has failed to respond to the undersigned's order to show cause, the undersigned  
10 recommends the court deny his motion to proceed *in forma pauperis*. Accordingly, the undersigned also  
11 recommends the court dismiss plaintiff's complaint unless he pays the required \$150.00 filing fee **within**  
12 **thirty (30) days** of the court's order.

13 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rules of Civil Procedure ("Fed. R. Civ. P.") 72(b),  
14 the parties shall have ten (10) days from service of this Report and Recommendation to file written  
15 objections thereto. See also Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those  
16 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit  
17 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set this matter for consideration on **March 18,**  
18 **2005**, as noted in the caption.

19 Dated this 23rd day of February, 2005.

21 /s/ Karen L. Strombom  
22 KAREN L. STROMBOM  
23 United States Magistrate Judge  
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